

II. Claims 14-18, drawn to encapsulated particles; and

III. Claims 19-23, drawn to a flavorant composition.

The restriction requirement is respectfully traversed. Specifically, Groups II and III are drawn to the same invention which can be defined as powder particles comprising acidulants or flavorants encapsulated within a coating of hydrogenated maltodextrin. In addition, claim 13 of Group I is also directed to encapsulated particles. All of these powder particles can be used in a variety of applications that have substantial overlap and cannot be easily separated from each other. For example, flavorants and acidulants are both commonly used in cosmetics, such as lipsticks, lip balms and certain skin care products, such as suntan lotions and body scenting products. In addition, flavorants and acidulants are both commonly used in food products and pharmaceuticals. In order for a prior art search concerning claim 13, claims 14-18 or claims 19-23 to be complete, the search would have to include the art relating to all uses of these encapsulated particles, including cosmetics, food products and pharmaceuticals. Accordingly, the Examiner's argument that the inventions are distinct because they are "separately usable" is not applicable in the present situation, where there is a substantial amount of overlap in the various applications that the encapsulated particles can be used in.

It is noted that the Examiner did not separate the claims into those claiming hydrogenated starch hydrolysates and those claiming hydrogenated maltodextrin. Accordingly, since the only difference between claim 13 (Group I) and claim 14 (Group II) is that the coating includes hydrogenated starch hydrolysate in claim 13 and is hydrogenated maltodextrin in claim 14, it is respectfully submitted that these two claims

should not be in separate Groups.

In view of the above remarks, it is respectfully submitted that the restriction requirement, as presently formulated, is clearly improper and should be withdrawn so that all of claims 1-23 can be examined in one application.

In the event that the restriction requirement is not withdrawn or reformulated and is made final, applicants provisionally elect to pursue the claims of Group I, claims 1-13, in the present application while reserving the right to pursue claims 14-23 in a divisional application.

In addition, with respect to the Examiner's requirement that if Group I is elected, a single disclosed species must also be elected for prosecution on the merits, applicants respectfully traverse this requirement but provisionally elect to pursue the species defined in claims 9-11 (i.e., the hydrogenated starch hydrolysate in sugarless hard boiled candy).

Respectfully submitted,
CONNOLLY BOVE LODGE & HUTZ LLP

By:



William E. McShane
Registration No. 32,707
Telephone: 302/658-9141